UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,335	07/11/2003	Kirt A. Debique	MS1-1538US	5260

22801   7590   04/16/2008

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EXAMINER
BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
04/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/618,335	DEBIQUE ET AL.
	Examiner	**Art Unit**	
	ALINA N. BOUTAH	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
 Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 July 2003_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-52_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-52_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _11 July 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10 and 27-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 10 and 32-38, "computer-readable media" is not statutory because it is not limited to hardware, but it is also directed to communication media such as "modulated signal" (see i.e. specification, page 34, paragraph [00104]). Signal is a form of energy, which is not one of the four categories of invention and therefore this claim is not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not combination of substances and therefore is not a composition of matter.

Regarding claims 27-31, the claims are directed to a media session comprising a software component. Software, per se, lacks storage on a medium which enables any underlying functionality to occur. See M.P.E.P. 2601.1 Section I, which states, "Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and USPTO personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Humpleman et

al. (US Patent No. 6,466,971).

Regarding claim 1, Humpleman teaches a method comprising:

requesting data to be streamed from a source device to a client device over a network

(col. 8, line 63 – "user request for service"); and

resolving a distributed topology from the request, wherein: the distributed topology

references a plurality of software components that, when executed, fulfill the request (col. 10,

lines 1-18); and

at least one of the plurality of software components is executable on each of:

the source device (col. 9, lines 9-18); and

the client device (col. 2, lines 52-63).

Regarding claim 2, Humpleman teaches a method as described in claim 1, wherein the

resolving further comprises: discovering the capabilities of the client device to render a stream

of data (col. 2, lines 52-63); discovering the capabilities of the source device to stream data that

is to be rendered (col. 9, lines 9-18); and deriving the distributed topology from both said

capabilities (col. 10, lines 1-19).

Regarding claim 3, Humpleman teaches a method as described in claim 1, wherein the

distributed topology is selected from the group consisting of: a remote sink distributed topology

(figure 9 – sink server); a remote source distributed topology (figure 8 – source server); and a

third party distributed topology (col. 7, line 20 - external server).

Regarding claim 4, Humpleman teaches a method as described in claim 1, further

comprising building a distributed software infrastructure from the distributed topology, wherein

the distributed software infrastructure includes the plurality of software components (figure 17).

Regarding claim 5, Humpleman teaches a method as described in claim 1, further

comprising building a distributed software infrastructure from an optimized distributed

topology such that the distributed software infrastructure is configured to stream data from the

source device to the client device without rendering the data with the source device before the

data is streamed (col. 7, line 62-col. 8, line 14).

Regarding claim 6, Humpleman teaches a method as described in claim 1, wherein: the

request also requests streaming data from an additional source device to the client device; and

the resolving resolves the distributed topology such that the plurality of software components,

when executed, fulfills the request to stream data from each of the source device and the

additional source device, respectively, to the client device (col. 6, line 66 to col. 7, line 23).

Regarding claim 7, Humpleman teaches a method as described in claim 1, wherein: the

request also requests streaming data from the source device to an additional client device; and

the resolving resolves the distributed topology such that the plurality of software components,

when executed, fulfills the request to stream data from the source device to each of the client

device and the additional client device (figure 3 – different clients).

Regarding claim 8, Humpleman teaches a method as described in claim 1, wherein the

distributed software infrastructure includes a distributed media session that provides a federated

mechanism for control, whereby: the at least one software component that is executable on the

source device is controllable by the distributed media session; and the at least one software

component that is executable on the client device is controllable by the distributed media

session (col. 8, line 64 to col. 9, line 7).

Regarding claim 9, Humpleman teaches a method as described in claim 1, wherein the

resolving is executed without user intervention on a device selected from the group consisting

of: the source device; the client device; and a third party device (col. 2, lines 24-36).

Claim 10 recites limitations similar to claim 1, but executed in computer-readable

medium. It is rejected under the same rationale as claim 1.

Regarding claim 11, Humpleman teaches a method comprising:

receiving a request to stream data from a source device to a client device over a network

(col. 8, line 63 – "user request for service"); and

resolving a distributed topology that references software components to fulfill the request

(col. 10, lines 1-18), wherein the distributed topology is resolved from:

capabilities of the client device to render a stream of data (col. 2, lines 52-63); and

capabilities of the source device to stream data that is to be rendered (col. 9, lines 9-18);

and

building from the distributed topology a distributed software infrastructure that includes

the referenced software components (i.e. API description), wherein at least one of the software

components is executable on each of: the source device (col. 9, lines 9-18); and the client

device (col. 10, lines 1-18).

Regarding claim 12, Humpleman teaches a method as described in claim 11, wherein the

distributed topology is selected from the group consisting of: a remote sink distributed topology

(figure 8 – sink server); a remote source distributed topology (figure 8 – source server); and a

third party distributed topology (col. 7, line 20 - external server).

Regarding claim 13, Humpleman teaches a method as described in claim 11, wherein the

resolving further comprises: discovering the capabilities of the client device to render a stream

of data; discovering the capabilities of the source device to stream data that is to be rendered;

and deriving a distributed topology from both said capabilities, wherein the distributed topology

references the software components (col. 10, lines 1-18).

Regarding claim 14, Humpleman teaches a method as described in claim 11, wherein the

building further comprises building the distributed software infrastructure from an optimized

distributed topology such that the distributed software infrastructure is configured to stream

data from the source device to the client device without rendering the data with the source

device before the data is streamed (col. 7, line 62-col. 8, line 14).

Regarding claim 15, Humpleman teaches a method as described in claim 11, wherein the

distributed topology references a distributed media session that provides a federated mechanism

for control such that: the at least one software component that is executable on the source

device is controllable by the distributed media session; and the at least one software component

that is executable on the client device is controllable by the distributed media session (col. 8,

lines 48-63 - session manager).

Regarding claim 16, Humpleman teaches a method as described in claim 11, wherein the

receiving and the resolving are executed without user intervention on a device selected from the

group consisting of: the source device; the client device; and a third party device (col. 2, lines

24-36).

Regarding claim 17, Humpleman teaches one or more computer-readable media

comprising computer-executable instructions that, when executed, perform the method as

recited in claim 11 (see rejection of claim 11).

Claims 18-25 are similar to claims 11-17, respectively, therefore are rejected under the

same rationale.

Regarding claim 26, Humpleman teaches a method comprising:

receiving a request to stream data from a source device to a client device (col. 8, line 63 –

"user request for service");

discovering the capabilities of the client device to render a stream of data (col. 2, lines

52-63);

discovering the capabilities of the source device to stream data that is to be rendered (col.

9, lines 9-18);

deriving a distributed topology to fulfill the request from both said capabilities, wherein

the distributed topology references a plurality of software components (col. 10, lines 1-18);

building from the distributed topology a distributed software infrastructure, wherein the

distributed software infrastructure includes said software components referenced by the

distributed topology (i.e. API description);

streaming the data from the source device to the client device over the network (col. 7,

line 62-col. 8, line 14); and rendering the data by the client device (col. 7, line 62-col. 8, line

14).

Claims 27-31 are similar to claims 1-5, respectively, and therefore are rejected under the same rationale.

Claims 32-36 are similar to claims 1-5, respectively, and therefore are rejected under the same rationale. The only difference is that it is being resolved without user intervention. Humpleman teaches that resolving automatically. This implies that it is being done without user intervention as described.

Claim 37 is similar to claim 18, therefore is rejected under the same rationale.

Claim 38 is similar to claim 20, therefore is rejected under the same rationale.

Regarding claim 39, Humpleman teaches a system comprising:

a source device that is operable to stream data to be rendered (figure 8: 14);

a client device that is operable to render a stream of data (figure 8: 12); and

a distributed media session (control/action response), which when executed, causes actions to be performed including: resolving a distributed topology that references a plurality of software components that, when executed, stream data from the source device to the client device over a network (col. 10, lines 1-18); and

building from the distributed topology a distributed software infrastructure that includes said software components, herein at least one of the said software components is executable on each of:

the source device (col. 9, lines 9-18); and

the client device (col. 2, lines 52-63).

Regarding claim 40, Humpleman teaches a system as described in claim 39, wherein the source device is selected from the group consisting of: a computing device which is locally connected to a source peripheral device (figure 3); and a network-ready device that is operable to stream data that is to be rendered (figure 3).

Regarding claim 41, Humpleman teaches a system as described in claim 39, wherein the client device is selected from the group consisting of: a computing device which is locally connected to a rendering device (figure 3); and a network-ready device suitable for rendering data (figure 3).

Regarding claim 42, Humpleman teaches a system as described in claim 39, wherein the resolving further comprises: discovering the capabilities of the client device to render a stream of data (col. 2, lines 52-63); discovering the capabilities of the source device to stream data that is to be rendered (col. 9, lines 9-18); and deriving the distributed topology from both said capabilities (col. 10, lines 1-18).

Regarding claim 43, Humpleman teaches a system as described in claim 39, wherein the distributed topology is selected from the group consisting of: a remote sink distributed topology (figure 8: 34); a remote source distributed topology (figure 3: 32); and a third party distributed topology (col. 7, line 20 - external server).

Regarding claim 44, Humpleman teaches a system as described in claim 39, wherein the building further comprises supplying at least one software component that is referenced by the distributed topology (figure 17).

Regarding claim 45, Humpleman teaches a system as described in claim 39, wherein the building further comprises building the distributed software infrastructure from an optimized distributed topology such that the distributed software infrastructure is configured to stream data from the source device to the client device without rendering the data with the source device before the data is streamed (col. 7, line 62-col. 8, line 14).

Regarding claim 46, Humpleman teaches a system as described in claim 39, wherein the execution of the distributed media session is performed by one of: the source device; the client device; and a third party device (col. 2, lines 24-36).

Claims 47-49 are similar to claims 39-41, therefore are rejected under the same rationale.

Regarding claim 50, Humpleman teaches a system comprising:

a network (figure 3: 10);

a source device which is configured to: compress data (col. 8, lines 15-33); and stream the compressed data without rendering the compressed data (col. 24, lines 47-52); and

a client device, communicatively coupled to the source device over the network (figure 8), wherein the client device is configured to: receive the streamed data from the source device

over the network; decompress the received data (col. 24, lines 47-52); and render the

decompressed data (col. 8, lines 15-33).

Regarding claim 51, Humpleman teaches a system as described in claim 50, wherein the

source device is selected from the group consisting of: a computing device which is locally

connected to a source peripheral device (figure 3); and a network-ready device that is operable

to stream data that is to be rendered (figure 3).

Regarding claim 52, Humpleman teaches a system as described in claim 50, wherein the

client device is selected from the group consisting of: a computing device which is locally

connected to a rendering device (figure 3); and a network-ready device suitable for rendering

data (figure 3).

Conclusion

It is noted that the column, line, and/or page number citations used in the prior art

references as applied by the Examiner to the claimed invention are for the convenience of the

Applicant to represent the relevant teachings of the prior art. The prior art references may contain

further teachings and/or suggestions that may further distinguish the citations applied to the

claims, therefore, the Applicant should consider the entirety of these prior art references during

the process of responding to this Office Action. It is further noted that any alternative and non-

preferred embodiments as taught and/or suggested within the prior art references also constitute

prior art and the prior art references may be relied upon for all the teachings would have

reasonably suggested to one of ordinary skill in the art. See MPEP 2123.

The prior art listed in the PT0-892 form included with this Office Action disclose

methods, systems, and apparatus similar to those claimed and recited in the specification. The

Examiner has cited these references to evidence the level and/or knowledge of one of ordinary

skill in the art at the time the invention was made, to provide support for universal facts and the

technical reasoning for the rejections made in this Office Action including the Examiner's

broadest reasonable interpretation of the claims as required by MPEP 2111 and to evidence the

plain meaning of any terms not defined in the specification that are interpreted by the Examiner

in accordance with MPEP 2111.01. The Applicant should consider these cited references when

preparing a response to this Office Action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ALINA N. BOUTAH whose telephone number is (571)272-3908.

The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alina N Boutah/
Examiner, Art Unit 2143